

This letter provides a reference to the Department's rules regarding drop shipments. See 86 Ill. Adm. Code 130.225. (This is a GIL.)

January 27, 2004

Dear Xxxxx:

This letter is in response to your letter dated September 29, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I request that you provide a letter ruling answering the following questions. Please indicate in writing and, if necessary, include copies of your state statutes substantiating your opinion. Please be very specific.

FACTS

The seller is registered to collect sales or use tax in your state.

The out-of-state purchaser has no nexus in your state and is not registered to collect your state's sales or use tax.

The third party is located in your state and is registered to collect your state's sales or use tax.

SCENARIO

The seller sells a product to the out-of-state purchaser who has the seller deliver the product to the purchaser's customer (third party) located in your state (drop ship). The

seller bills the out-of-state purchaser who is not registered with your state to collect and remit sales tax.

QUESTIONS

- 1) Can the seller accept a valid out-of-state exemption certificate from the purchaser? The exemption certificate provided by the purchaser is from the purchaser's home state.
- 2) Must the purchaser be registered with your state to issue your state's exemption certificate to the seller?
- 3) Can the seller accept the third party's valid exempt certificate? If so, must the certificate be addressed to the purchaser or the seller?
- 4) Can the seller accept any other form of documentation from the purchaser to exempt the purchaser from sales tax? Examples: copy of invoice between purchaser and third party, written statement from purchaser indicating they do not have nexus and are reselling the product, an affidavit from the third party that they will pay the tax directly to your state, etc.

Thank you for your assistance.

DEPARTMENT'S RESPONSE:

We regret that we cannot provide you with a specific answer in the context of a General Information Letter. Please see the Department's administrative rules regarding drop shipments. 86 Ill. Adm. Code 130.225.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk